

UNITED STATES DISTRICT COURT
DISTRICT OF NEW JERSEY

IN RE: ELMIRON (PENTOSAN
POLYSULFATE SODIUM)
PRODUCTS LIABILITY
LITIGATION

Case No. 2:20-md-02973 (BRM)(ESK)

MDL No. 2973

JUDGE BRIAN R. MARTINOTTI
JUDGE EDWARD S. KIEL

THIS DOCUMENT RELATES TO:
ALL ACTIONS

CMO 17 – Seconded
Amended

I. **SCOPE OF ORDER**

In furtherance of the effective and efficient case management of complex litigation, this Case Management Order (“CMO”) will govern the deadlines and pretrial activity in the *Windham* matter, the first bellwether trial case for *In Re: Elmiron (Pentosan Polysulfate Sodium) Products Liability Litigation* (“MDL No. 2973”). This Order will further supplement and amend CMO 17.

II. **AMENDED SCHEDULE FOR THE COURT SELECTED WINDHAM MATTER**

- A. The remaining pre-trial schedule for the Court-selected *Windham* matter, the first bellwether trial, shall proceed as set forth below.
- B. In order to accommodate this schedule, the parties have agreed to take the depositions of all experts with opinions relative to the *Windham* matter consistent with the schedule set forth in Part II.C. below, including those experts who have general cause only opinions in the *Windham* matter.¹

¹ For those experts with general cause only opinions in the *Windham* matter but specific cause opinions in other

- C. The remaining schedule for the Court selected *Windham* matter will be further amended as follows:

September 16, 2022	Expert Depositions to conclude. ²
September 27, 2022	Dispositive motions as well as <i>Daubert</i> motions to be filed.
October 27, 2022	Opposition briefs to dispositive motions and <i>Daubert</i> motions to be filed.
November 1, 2022	Opposition briefs to <i>Daubert</i> motions to be filed.
November 10, 2022	Reply briefs to dispositive motions and <i>Daubert</i> motions to be filed.
November 18, 2022	Deposition designations to be filed.
December 2, 2022	Witness (fact and expert) lists; Exhibit lists; and Motions <i>in limine</i> to be filed.
December 16, 2022	Opposition briefs to motions <i>in limine</i> to be filed and Objections and counter designations to be filed.
January 6, 2023	Objections to counter designations as well as Objections to exhibit lists to be filed.
January 9, 2023	Each party to file proposed jury instructions and outline of proposed <i>voir dire</i> process (including questionnaire, if any).
January 9-13	Hearing on motions <i>in limine</i> and deposition designations
January 16, 2023	Each party may submit a letter via email, copy to the other side and not to exceed three (3) pages, noting issues for which they seek the Court's guidance or adjudication prior to opening statements to assist the Court in preparing for the Pre-Trial Conference.
Week of January 23, 2023	<i>Windham</i> pre-trial conference.
January 30, 2023	<i>Windham</i> trial will commence.

bellwether trial cases, a second and limited (3 hour) deposition on the specific causation opinions for the other case will be conducted consistent with the deadlines set forth in the future CMO covering pre-trial scheduling of those matters.

² Due to an unavoidable conflict, the parties have agreed that the deposition of defense expert, Rajendra Apte, M.D., Ph.D., may go forward on September 29, 2022. Plaintiffs will file any *Daubert* motion relating to Dr. Apte on October 4, 2022 or sooner.

It is so **ORDERED.**

Date: 9/27/22

BY THE COURT:

A handwritten signature in black ink, appearing to read "Brian R. Martinotti", written in a cursive style.

Hon. Brian R. Martinotti, USDJ